

AUG 26 2008

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BY  DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

MANAGEMENT SOLUTIONS, INC. : DOCKET NO. 2:08-469

VS. : JUDGE MINALDI

ASPEN SPECIALTY INSURANCE : MAGISTRATE JUDGE KAY


MEMORANDUM ORDER

IT IS ORDERED, ADJUDGED and DECREED that Aspen Specialty Insurance Company's ("Aspen") Motion for Summary Judgment [doc. 4] IS DENIED. Aspen may re-file this motion, if warranted, upon the conclusion of discovery.

Upon a summary-judgment movant's showing the absence of a genuine issue of material fact, a nonmovant bears the burden of showing such an issue for trial. *E.g., Adams v. Travelers Indem. Co. of Conn.*, 465 F.3d 156, 163-64 (5th Cir.2006). A district court can deny summary judgment or order a continuance for discovery, under Rule 56(f), if the nonmovant shows by affidavit it cannot yet present facts essential to justify its opposition to summary judgment. Fed.R.Civ.P. 56(f); *see Adams*, 465 F.3d at 162. "A non-movant seeking relief under Rule 56(f) must show: (1) why he needs additional discovery and (2) how that discovery will create a genuine issue of material fact." *Adams*, 465 F.3d at 162. *See also Rutherford v. Muniz*, 2008 WL 2228830, 2 (5th Cir. 2008). Counsel for Management Solutions, Inc. has made a sufficient showing to justify denying the motion

for summary judgment pursuant to Rule 56(f) in order to allow time to conduct discovery.

Lake Charles, Louisiana, this 25 day of August, 2008.


PATRICIA MINALDI
UNITED STATES DISTRICT JUDGE